

### Remarks

Claims 1-19, 21-24 and 26-31 are pending. Claims 20, 25 and 32-40 are canceled. Claims 1, 15, 21-22, 26 and 28-31 are amended. Support for the amendments to claims 1, 22 and 30 may be found, for example, in page 15, paragraph 6, page 16, paragraph 2, and page 18, paragraph 1 of the specification, in Fig. 1, and in claim 20 as filed. Claim 15 is amended to correct a typographical error. Claims 21, 26, 28-29 and 32 are amended to depend from claim 1. No new matter has been added.

### Claim Rejections - 35 U.S.C. § 102/103

Claims 1-7, 9, 10, 13, 18, 19 and 22-29 are rejected under 35 U.S.C. § 102(b), or alternatively under 35 U.S.C. § 103(a), in view Goddard (EP 0400847).

Claim 1 as amended requires a first electromagnet and a second electromagnet for applying a magnetic field to at least part of the chamber volume. The first electromagnet has a first electromagnet major axis and is spaced apart from the second electromagnet by the sample chamber. The second electromagnet has a second electromagnet major axis. The first electromagnet major axis and the second electromagnet major axis are parallel to the sample chamber major axis. Claim 1 also requires at least one sensor operative to detect a response, along the sample chamber major axis, of the at least one particle to the magnetic field.

Goddard shows an apparatus for detecting a change in the fluid state of a liquid. Goddard shows a sample chamber containing an agitator, means for displacing the agitator from its resting position and then releasing the agitator so that it can return to its resting position under the influence of gravity. The apparatus in Goddard includes an electromagnet located above the chamber and a means of alternatively energizing and de-energizing the magnet to draw the agitator from the bottom of the chamber to the top and then release it.

Goddard fails to disclose or suggest a first and second electromagnet for applying a magnetic field to at least part of the chamber volume. For example, Goddard fails to disclose or suggest a first electromagnet spaced apart from a second electromagnet by a sample chamber. Goddard also fails to disclose or suggest a sensor operative to detect a response, along the sample chamber major axis, of the at least one particle to the magnetic field.

Reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections - 35 U.S.C. § 103

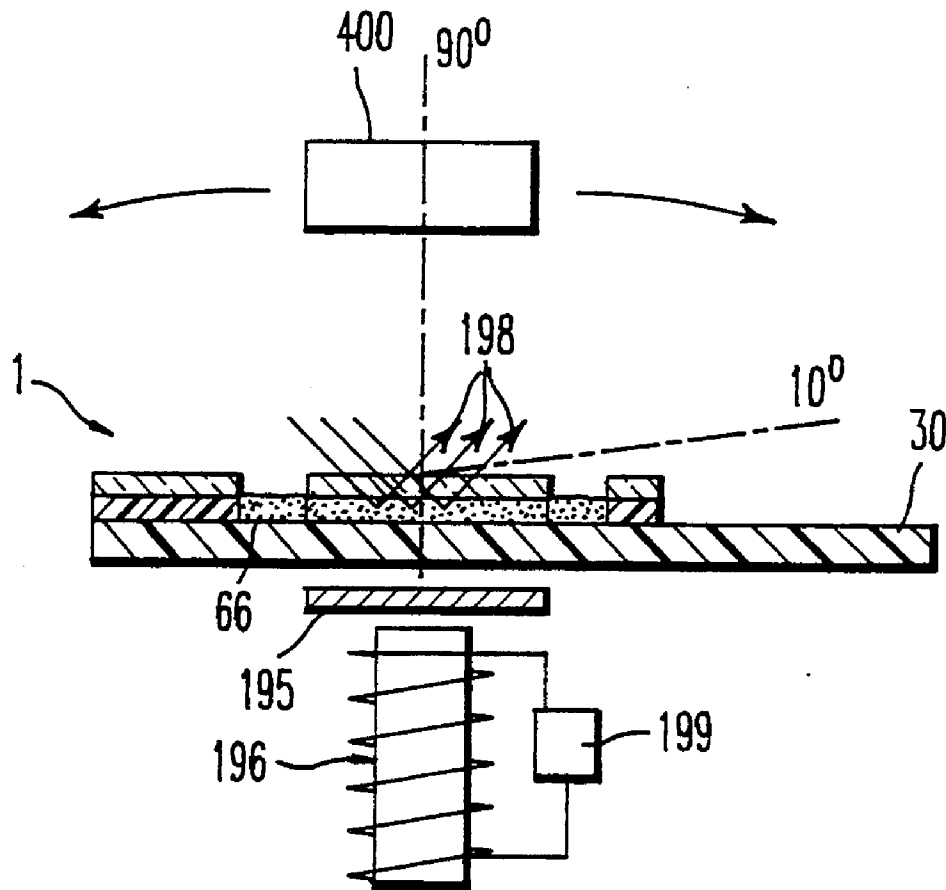
The Office Action rejects claims 11, 12, 15-17 and 30 under 35 U.S.C. § 103(a) as obvious in view of Goddard (EP 0400847).

As discussed above, Goddard does not disclose or suggest the invention claimed in claim 1. Therefore Goddard also does not disclose or suggest claims 11, 12, and 15-17, which depend from claim 1.

Claim 30 as amended requires applying a magnetic field to a sample using a first electromagnet and a second electromagnet. The first electromagnet has a first electromagnetic axis and is spaced apart from the second electromagnet by the sample chamber. Thus claim 30 is patentable for at least the same reasons as claim 1. Reconsideration and withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 8, 14, 20, 21, 31, and 32-40 under 35 U.S.C. § 103(a) as obvious in view of Goddard (EP 0400847) in combination with Oberhardt et al. (5350676). Claims 20, 31, and 33-40 are canceled, therefore the rejection is moot with respect to these claims.

Oberhardt discloses a method of measuring fibrinogen concentration in a sample by monitoring the minimum and maximum amplitude of particle oscillation or a change in the degree of particle movement relative to a magnetic field. Referring to Fig. 2 of Oberhardt, reproduced herein, Oberhardt shows a reaction slide **1** in close proximity to a permanent magnet **195**. An electromagnet **196** is located below the permanent magnet **195**. An oscillating magnetic field is generated by moving the permanent magnet **195** back and forth along a plane parallel to the plane of the reaction slide **1**, or by using the electromagnet **196**.



**FIG. 2**

Oberhardt does not disclose or suggest a first electromagnet major axis and a second electromagnet major axis parallel to the sample chamber major axis, as required by claim 1. Oberhardt also fails to disclose or suggest a sensor operative to detect a response, along the sample chamber major axis, of the at least one particle to a magnetic field.

As discussed above, Goddard does not disclose or suggest all of the limitations of claims 1 and 30. Therefore Goddard also does not disclose or suggest claims 8, 14, 21, and 32, which depend from claim 1. Oberhardt does not remedy the deficiencies of Goddard. Therefore Applicants believe that the claims are patentable over Goddard in combination with Oberhardt. Reconsideration and withdrawal of the rejection is respectfully requested.

### **Conclusion**

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,  
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Dated: April 28, 2008